

Unrelated trade or business; hospital; hearing aid sales. The sale of hearing aids to its patients by an exempt hospital whose primary activity is rehabilitating the handicapped, including those with hearing deficiencies, does not constitute unrelated trade or business under section 513 of the Code.

Advice has been requested whether, under the circumstances set forth below, the sale of hearing aids by an organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code in unrelated trade or business within the meaning of section 513.

The organization is a hospital within the meaning of section 170(b)(1)(A)(iii) of the Code. Its primary activity is the operation of a clinic that provides various rehabilitation services to handicapped persons, including those with hearing deficiencies.

In the course of its activities, the organization tests and evaluates the hearing of its patients with hearing deficiencies, and recommends such types of hearing aids as may be necessary in each case. Patients who wish to purchase hearing aids from the organization may do so. Upon purchase, the organization fits the hearing aids to insure maximum assistance to the patients in the correction or alleviation of their hearing deficiencies.

Section 513 of the Code defines the term 'unrelated trade or business' as any trade or business the conduct of which is not substantially related (aside from the need of an organization for income or funds or the use it makes of the profits derived) to the exercise or performance by an organization of its exempt functions.

Section 1.513-1(d)(2) of the Income Tax Regulations provides that a trade or business is 'substantially related' only if the production or distribution of the goods or the performance of the service from which the gross income is derived contributes importantly to the accomplishment of the purposes for which exemption was granted.

The sale of hearing aids as an integral part of an organization's program to test and evaluate patients with hearing deficiencies contributes importantly to the organization's purpose of promoting the health of such persons. See Rev. Rul. 68-376, 1968-2 C.B. 246, for examples of relationships that determine whether a person is a 'patient' of a hospital.

Accordingly, the sale of hearing aids to its patients, under the circumstances described, is substantially related to the purpose constituting the basis for the organization's exemption and is not unrelated trade or business within the meaning of section 513 of the Code.